IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04/08/2003

CORAM

THE HONOURABLE MR.JUSTICE A.KULASEKARAN

W.P. No. 17703 of 2003
and W.P.Nos. 17704, 17705, 18121, 18141, 18226, 18241, 18263, 18280, 18283, 18289, 18290, 18291, 18318, 18330, 18367, 18392, 18396, 18413, 18414, 18424, 18425, 18426, 18446, 18459, 18499, 18515, 18574, 18596, 18705, 18706, 18707, 18746, 18824, 18843, 18856, 18863, 18890, 18919, 18923, 18924, 18948, 18982, 19164, 19166, 19357, 19358, 19415, 19464, 19477, 19478, 19513, 20171, 20688, 20796, 20823, 20827, 20828 , 20836, 20839, 20863, 20867, 20887, 20916, 20917, 20929, 20930, 2093 3, 20935, 20936, 20947, 20968, 20969, 20973, 20975, 21014, 21076, 21102, 21167, 21279, 21297, 21300, 21328, 21335, 21380, 21426, 21450, 21462, 21470, 21475, 21476, 21484, 21492, 21493, 21498, 21499, 21500, 21501, 21502, 21503, 21504, 21505, 21506, 21509, 21535, 21579, 21605, 21606, 21609, 21665, 21666, 21667, 21668, 21670, 21715, 21743, 21764 , 21771, 21773, 21776, 21800, 21801, 21805, 21809, 21810, 21823, 21831, 21832, 21834, 21835, 21836, 21837, 21838, 21883 and 21884 of 2003
and
W.P.M.P. Nos. 22129, 22130, 22131, 22606, 22631, 22782, 22796, 22819, 22836, 22841, 22850, 22851, 22852, 22877, 22893, 22894, 22964, 22990 , 22995, 23020, 23021, 23034, 23035, 23036, 23066, 23119, 23136, 23207, 23258, 23402, 23403, 23404, 23455, 23566, 23568, 23606, 23611, 236 36, 23678, 23684, 23685, 23758, 23720, 23964, 23966, 24304, 24169, 24 170, 24243, 24244, 24361, 25182, 25183, 25888, 25911, 25917, 25920, 2 5937, 25942, 25981, 25982, 26009, 26010, 26021, 26022, 26026, 26028, 26029, 26039, 26057, 26058, 26061, 26063, 26104, 26237, 26189, 26292, 26439, 26452, 26561, 26604, 26624, 26631, 26637, 26641, 26642, 26660 , 26661, 26663, 26664, 26665, 26666, 26667, 26668, 26670, 26671, 26674, 26702, 26758, 26786, 26789, 26850, 26851, 26852, 26853, 26858, 26931, 26955, 26992, 26995, 27022, 27023, 27024, 27029, 27046, 27060, 27062, 27063, 27109 and 27110 of 2003

W.P.No.17703 of 2003 :

V. Samya ... Petitioner

-Vs-

1. State of Tamil Nadu
rep. by its Secretary to Government
Health Department
Fort St. George
Chennai - 600 009

2. The Secretary

TNPCEE 2003
(Tamil Nadu Professional Courses
Entrance Examination 2003)
Anna University
Chennai - 600 025

3. The Secretary
Selection Committee for Medical Education
No.162, Periyar E.V.R. Salai
Kilpauk, Chennai - 600 010

4. Medical Council of India
Aivan-E-Galib Marg
Kotala Road
(Opposite Tomato Sundari College for Women)
New Delhi - 110 002

5. Dental Council of India
Temple Lane
Kotala Road
New Delhi - 110 002 ... Respondents

(Respondents 4 and 5 are impleaded
Suo Motu as per order of the Court
dated 04-08-2003)

!For Petitioner :Mr. Viduthalai

^For Respondents :Mr.N.R. Chandran, Advocate General
assisted by Mr.V.R.Rajasekaran,
Special Government Pleader,
in all the Writ Petitions
assisted by Mr.S.P.Prabhakaran,
Additional Government Pleader.

Mr. G. Masilamani, Senior Counsel for
Anna University for M/ s. G.M. Associates
in all the Writ Petitions.

:O R D E R

Since the relief sought for in all these Writ Petitions is
similar to one another, these Writ Petitions are being disposed by a common
order.
2. These Writ Petitions have been filed, seeking for the
relief of either mandamus or certiorarified mandamus, to call for the records
pertaining to the altered marks published on 20.05.2003 for Tamil Nadu
Professional Courses Entrance Examination, 2003, conducted by Anna University,
quash the same and award 0.42 mark to Question No.54 in version 1, holding
choice No.4 in Physical Science as the correct answer.
3. Anna University has been appointed as the agent of

Government of Tamil Nadu for the purpose of conducting Tamil Nadu Professional Courses Entrance Examination, hereinafter referred to as TNPCEE, for a period of three years from 2002 to 2004 vide G.O.Ms.No.43 dated 18.02 .2002. Pursuant to the said G.O., the Anna University had constituted a Co-ordination Committee for TNPCEE for 2003-2004, which was approved by the Government Order dated 26.09.2002.

4. Anna University collected question papers for the subjects Mathematics, Physical Science and Biology from various persons and sources and were stored in a Question Bank. The entrance examination was of objective type questions and candidates appearing for the examination are also entitled to take carbon copy of the coding sheet, in which they shade or mark the answer for the sake of transparency in the conduct of examination. Five different versions of question papers for each subject including Physical Science were prepared by jumbling the question numbers to avoid copying in the examination hall. The version No.1 is taken for consideration in these cases. After examination is over, the Anna University constituted an expert Committee with three members for the subject Physics for the purpose of identifying any possible errors before the final answer key is prepared for the questions. The said Committee evaluated Physics question paper. In the above question paper, for Question No.54, the original question/ answer key setter had given Choice 3 as the correct answer and the Subject Expert Committee modified it and gave Choice 4 as the correct answer. Question No.58 was eschewed from Question Paper because there were more than one unique correct answer. The Anna University constituted another Committee, consisting of five members. The said Committee has given a report, adopting the answer key, finalised on 26.04.2 003, which was published on 03.05.2003. It is stated that Anna University received complaints from the students as well as parents, pertaining to answer key for Question No.54 of Version I, stating that the correct answer is choice No.3 and not choice No.4. Thereafter, the Subject Expert Committee was requested to verify into the complaints in respect of Question No.54. The Subject Expert Committee, which met on 13.05.2003, clarified that the correct answer for Question No.54 was choice No.3 and not choice No.4. Pursuant to that, the modified key answer in respect of Question No.54 was Choice No.3. Thereafter, the Vice-Chancellor constituted a Panel of Subject Experts in Physics consisting of senior persons in Anna University as well as University of Madras once again to check the correct answer for Question No.54. The Expert Committee met on 16.05.2003, went through the representations, discussed Question No.54 and gave a report that the correct answer for Question No.54 is choice No.3. Pursuant to the finalisation of the answer key for Question No.54, the Press release was made on 20.05.2003. The said release dated 20.05.2003 has been challenged in all these Writ Petitions.

5. This Court, by an order dated 14.07.2003, appointed a Panel consisting of Three Members, in which One Member was sponsored by the petitioners and Two Members were sponsored by the Anna University. The Members of the said Panel filed separate reports, holding that choice Nos.3 and 4 to Question No.54 are correct.

6. Question No.54 runs as follows :

54. In the following statements

(a) Energy of a wave is directly proportional to its wavelength

(b) Audio signal frequency is 2x10-2 kHz to 20 kHz

(c) Amplitude modulation is used for video signal
(d) Modulation factor is used to find the strength and quantity of the modulated wave

1. (a) and (d) correct; (b) and (c) false
2. (a) and (b) correct; (c) and (d) false
3. (b) and (c) correct; (a) and (d) false
4. (b),(c) and (d) correct; (a) false

7. The Panel appointed by this Court submitted its report as mentioned below :
Report of Dr.K.Govindasamy :
"With the directive of the above reference, question number 54 of version code 1 in question book PC 23, after careful analysis, I submit the following answer.
Both (3) and (4) choices are correct and due credit should be given to either 3 or 4.
The choices 3 and 4 are taken as correct answers for the reason " quantity of the modulated wave" is not defined as given in 54 (d) and hence it is ambiguous."
Report of Dr.K.Subrahmanyam :
The question number 54 in version No.1 in question book PC 23 has been analyzed very carefully and critically.
- My response is : The choices 3 (three) and 4 (four) are the correct answers; any one answering either choice 3 or choice 4 deserves the marks.
- Reasons for the correct answers are furnished below :
In the statement of (d) of the question No.54, the term "quantity" with reference to the Modulation factor has not been defined and hence it is ambiguous. Ambiguity in technical terms can lead to both the choices 3 and 4.

Report of Dr.Suresh Govindarajan :
I have analysed the question and reached the conclusion that both choices 3 and 4 should be accepted as correct answers to question No.54 . The detailed technical analysis is as follows :
Question 54 consists of four statements labelled (a)-(d). The (correctness of) choices 1-4 are decided based on whether these statements are true or false. Statement (a) is unambiguously false and statements (b) & (c) are unambiguously true. This date alone rules out choices 1 and 2. Statement (d) which should enable the student to decide between choices 3 and 4 is ambiguous because the term 'quantity of a modulated wave' has no known technical meaning. Thus, there is no way for one to decide between choices 3 and 4 and hence both should be accepted as possible answers. This is consistent with the fact that anyone who has chosen choices 3 or 4 has clearly ruled out choices 1 and 2 indicating understanding of the technical concepts tested by the question."

8. The Members of the Panel have categorically stated that both the choices 3 and 4 are correct and due credit should be given to either choice 3 or choice 4 and that the candidates, who attend either choice 3 or choice 4, deserve marks.
9. The learned Counsel Mr.Vidudalai and the learned Senior

Counsel Mr.Vijayan have submitted that the respondent University erred in resorting to change of key answer and alteration of the marks awarded to the students; that the key answer prepared by the Expert Panel ought to have been scrutinized by the respondents before conducting the entrance examination and not after completion of the examination and the valuation of the papers and that the arbitrary action of the University by altering the key answer after valuation of answer papers would prejudicially affect the petitioners' right. It is also further submitted by the said counsel that this Court has appointed a Panel, in which two members are sponsored by Anna University and one member by the petitioners; hence, the report of the said Panel Members is binding on the University and accordingly, they prayed for allowing of these Writ Petitions.

10. Mr.G.Masilamani, learned Senior Counsel appearing for the Anna University, relying on the counter, submitted that the word ' quantity' has been intentionally substituted for the word 'quality' so as to render the statement (d) incorrect. It has been done specifically for the purpose of testing the intelligence, acute observation and understanding capacity of the students.

11. The learned Senior Counsel Mr.G.Masilamani has submitted that the Panel, appointed by this Court, found that the statement (d) is having no known technical meaning and it is ambiguous, as a result of which choices 3 and 4 should be considered as correct answers and that the opinion of the Panel Members, appointed by this Court, shows that the statements (b) and (c) are correct statements without any ambiguity while statement (d) is admittedly ambiguous in the opinion of the Panel and hence, the correct answer shall be choice No.3.

12. Examination means, the act or process of examination of state of being examined. The test given to a candidate for a certificate or a position and concerned typically with problems to be solved, skills to be demonstrated or tasks to be performed. The examination is to determine the amount and quality of learning over a period of time.

13. Research means, capacity for or inclination to research or critical and exhaustive investigation or experimentation having for its aim, the discovery of new facts and their correct interpretation.

14. It is an admitted fact that the petitioners are +2 students, who were allowed to write only the examination and not to conduct any research. The students of that nature are expected to give answer so that the examiner can determine the amount and quality of learning over a period of time. They are not called upon to conduct critically an exhaustive investigation or experimentation to discover any new facts. It is evident that Question No.54 consists of 4 statements and the students should choose the correct choice out of four choices.

15. I am unable to accept the argument of the learned Senior Counsel Mr.G.Masilamani for the reason that the records relating to the Meetings of Expert Panels did not disclose that the word 'quantity' has been intentionally substituted for the word 'quality'. In addition, there are no deliberations in respect of the above said substitution in the Panel Meetings at all.

16. On a perusal of the records, I find that the Key Setter had given choice No.3 as correct answer. Thereafter, a Three Member Expert Committee found choice No.4 as correct and subsequently, a Five Senior Member Committee met on 26.04.2003, examined the report of the Three Member Committee and approved it. Consequently, publication was made on 03.05.2003. After receipt of complaints, the Expert Committee was summoned, which met on 13.05.2003, gave a report that choice No.3 was correct answer. The Vice-Chancellor of Anna University again constituted a Two Member Committee of subject experts in Physics of very senior persons in Anna University as well as University of Madras to once again check the correct answer. The said Two Member Committee on 16.05.2003 reported that choice No.3 was correct answer. Thereafter, a Press Release was made on 20.05.2003. It is evident that no discussion has been taken place about the substitution of the word ' quantity'.

17. Hence, I am unable to accept the contention of the learned Senior Counsel Mr.G.Masilamani. All the Three Members of the Panel, appointed by this Court, in their separate reports, pointed out that choices 3 and 4 are to be taken as correct answers for the reason ' quantity of the modulated wave' is not defined as given in Question No.54 (d), hence, it is ambiguous and therefore, both choices 3 and 4 are correct answers. I considered the said report of the Panel and hold it is perfectly valid.

18. As I have already pointed out, the records relating to the Meetings of Expert Committees did not disclose anything about the word ' quantity'. In addition to that, by consent, the Panel was appointed by this Court, in which Two Members of the Panel were sponsored by Anna University and One Member alone was sponsored by all the petitioners. Hence, the report of the said Panel is binding on the parties.
19. As stated supra, it is an examination to determine the amount of quality of learning over a period of time by +2 students. The key answer dated 20.05.2003 is shown to be demonstrably wrong i.e., to say such as no reasonable body of men well versed in particular subject would regard to it as correct and if the answer given by the student is correct, it would be unfair to penalise the students for not giving answer which accords with the key answer i.e., to say that an answer which is demonstrated to be wrong.

20. It is apt to refer to the ratio laid down by the Hon'ble Supreme Court in AIR 1984 SUPREME COURT 1402 (Abhijit Sen v.State of U.P.) in this context.

21. Hence, I set set aside the results announced by Anna University on 20.05.2003 in so far as it relates to Question No.54, choice No.4 is concerned and hold that the same is also a correct answer and consequently, direct the respondents concerned to add 0.42 mark (fractions can be mentioned as per accurate arithmetic calculations) to the petitioners who have shaded the choice 4 of Question No.54 and further hold that the mark already awarded to the candidates, who shaded choice 3, is also correct.

22. It is submitted by Mr.N.R.Chandran, learned Advocate General, that among the writ petitioners, some are admitted in I Year MBBS, as

they have come into the zone of consideration and some other candidates are likely to be inducted, consequent to the adding of 0.42 mark.

23. The counselling for MBBS and BDS is already over. Hence, I feel it is just and necessary to implead MEDICAL COUNCIL OF INDIA and DENTAL COUNCIL OF INDIA and they are impleaded suo motu. Taking note of the strange circumstances prevailed, to render justice to the petitioners, who are penalised, due to the mistake committed by the respondent University, I mould the relief as follows:

i) The Selection Committee is directed to give the list of writ petitioners within four days from today to the Anna University.
ii) Anna University is directed to add 0.42 mark to the petitioners, who attended Question No.54 (4), and keep the Marks Sheets ready within seven days from today and issue revised Marks Sheets to the petitioners, on surrender of earlier Marks Sheets.
iii) After issuing revised Marks Sheets, the Anna University is directed to publish the same in website in respect of the writ petitioners.
iv) The colleges, where any of the petitioners is admitted, are directed to return the Entrance Examination Marks Sheets forthwith.
v) The respondents shall conduct counselling to the eligible candidates between 10.09.2003 and 20.09.2003 (the dates are mentioned as prayed for by the Government).
vi) The admission of candidates already completed based on the list published by the Anna University on 20.05.2003 shall not be disturbed.
vii) Allotment of colleges will be based on the merit of the candidates.
viii) The Government of Tamil Nadu is permitted to approach the Medical Council of India and the Dental Council of India, in the event of enhancement of seats in respect of I Year MBBS/BDS Course.
ix) Medical Council of India and Dental Council of India are directed to increase the seats, to meet the contingency, taking into account of the strange circumstances in these cases.
x) The Government of Tamil Nadu is directed to extend the last date for payment of fee for the eligible candidates, depending upon the requirement.
xi) The entire exercise shall be completed by the respondents by 20.09.2003.

23. All these Writ Petitions are disposed of in the above terms. No costs. Consequently, the connected W.P.M.Ps. are closed.

Index : Yes
Internet :Yes

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